

## § 564.51

(e) *Limitation of burial expense.* Payment of burial expenses is limited to an amount not exceeding that allowed by the Government for such services and in no circumstances may payment exceed the amount actually expended. The amount allowed when relatives incur the expenses will be in accordance with the following limitation:

(1) If death occurs where a properly approved Contract for Care of Remains is in force (Army, Navy, or Air Force contracts), the amount to be allowed for each item will not exceed the amount allowable under such contract.

(2) If death occurs where no contract is in force, reimbursement for items or services, including preparation and casketing will be limited to the stipulated amount included in chapter 4, AR 638-40.

(3) Reimbursement for transportation will be limited to the amount for which the Government could have obtained required common carrier transportation plus the change made for hearse service from the common carrier terminal to the first place of delivery.

(4) Reimbursement for interment expenses is limited to the amounts provided in chapter 13, AR 638-40.

(f) *Accountability for clothing.* (1) If in a serviceable condition, the uniform in possession of the deceased will be used and accountability dropped in accordance with NGR 710-2.

(2) If a serviceable uniform is not in possession of the deceased, a request for issue of required items will be prepared. Accountability and responsibility for items issued will be terminated by the responsible officer upon execution of a statement on DA Form 3078 or 3345, substantially as follows:

The items of clothing enumerated above were issued to clothe the remains of \_\_\_\_\_ for funeral purposes. At the time of his/her death, the deceased was a member in good standing in this organization.

(g) *ARNG personnel serving in a non-pay status.* In accordance with title 32, U.S.C. section 503, a member may, with his/her consent, either with or without pay, be ordered to perform training or other duty in addition to that prescribed under title 32, U.S.C. section 502(a). Duty without pay will be consid-

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ered for all purposes as if it were duty with pay.

[44 FR 18489, Mar. 28, 1979]

### CLAIMS FOR DAMAGES INVOLVING THE NATIONAL GUARD AND AIR NATIONAL GUARD

SOURCE: Sections 564.51 through 564.58 appear at 19 FR 5168, Aug. 17, 1954, unless otherwise noted. Redesignated at 26 FR 12767, Dec. 30, 1961.

#### § 564.51 Purpose.

Sections 564.51 to 564.58 are published for the information and guidance of all concerned to implement the statutory authority by defining the claims payable thereunder and the procedure for establishing, determining, and settling such claims. They provide the exclusive authorization and procedure for the determination and settlement of claims within the following statutory authority.

#### § 564.52 Statutory authority.

(a) Limited authority for the payment of claims arising out of National Guard and Air National Guard activities has been granted annually for several years by provisions of the annual Appropriations Act for the Department of Defense. A recent provision is as follows:

The following sums are appropriated, \* \* \* For payment of \* \* \*; claims (not to exceed \$1,000 in any one case) for damages to or loss of private property incident to the operation of Army and Air National Guard camps of instruction, either during the stay of units of said organizations at such camps or while en route thereto or therefrom; \* \* \* (Act of August 1, 1953, Public Law 179, 83d Cong.).

(b) In accordance with general principles of law, the National Guard and the Air National Guard when not in Federal service are not agencies of the United States, and the United States is not liable for injury or damage arising from their activities. Thus, claims for such injury or damage are not cognizable under the Federal Tort Claims Act, as revised and codified (62 Stat. 982, 28 U.S.C. 3671-80). By the statutory provisions referred to in paragraph (a)